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Dividing and Inclosing several Commons and Waste Grounds within the Manor of *Wavertree*, in the Parish of *Childwall*, in the County Palatine of *Lancaster*.

Pres



WHEREAS there are within the Manor of *Preamble*, *Wavertree*, in the Parish of *Childwall*, in the County Palatine of *Lancaster*, certain Commons or waste Grounds called *Wavertree Commons* and *Wavertree Moss*, and divers other small Parcels of Common or waste Grounds, containing in the Whole Four hundred and Nine Acres or thereabouts :

And whereas *Bamber Gascoyne*, Esquire, is Lord of the said Manor, and together with *Thomas Plumbe*, *John Dannett*, *Edmond Ogden*, Esquires, *William Lake*, *William Pickance*, *Peter Pemberton*, Gentlemen, *William Lightbody*, *Adam Lightbody*, and *Richard Savage*, Merchants, and several other Persons being Copyholders or Customary Tenants within the said Manor, have severally for themselves and their respective Lessees and Tenants, for and in respect of their

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several Copyhold or Customary Estates within the said Manor,
Right of Common upon the said Commons and waste Grounds:

And whereas there are divers Leasehold Estates within the said
Manor of Wavertree which are held by or under Copy of Court Roll,
or otherwise, for One or more Life or Lives, and also for Years, and
the Lessees and Tenants thereof have and enjoy Common of
Pasture upon the said Commons and waste Grounds for and in re-
spect of such Estates, but some of them are by their Leases only
intitled to Right of Common thereon, so long as the said Commons
and waste Grounds lie open and uninclosed: 3

And whereas the said Commons and waste Grounds in their
present Condition yield little or no Profit or Advantage to the several
Persons interested therein, and it would be very advantageous to
them if the same were divided and inclosed; But as such Division
and Inclosure cannot be effectually established without the Aid of
Parliament;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by the KING's most
Excellent MAJESTY, by and with the Advice and Consent of the
Lords Spiritual and Temporal, and Commons, in this present Parliament
assembled, and by the Authority of the same; That Joseph Jackson
of West Derby, in the said County of Lancaster, Caryl Fleetwood,
and John Eyes of Liverpool, in the said County, Gentlemen, and
their Successors, to be appointed in Manner herein after mentioned,
shall be and they are hereby appointed Commissioners for the dividing,
setting out, and allotting the several Commons and waste Grounds
in the Manor of Wavertree, in the Parish of Childwall, in the County
Palatine of Lancaster, and for putting this Act in Execution; subject
to the Rules, Orders, and Directions herein contained.

Commission-
ers.

Commission-
ers to take an
Oath.

The Oath.

And be it further Enacted, That no Person shall be capable of
acting as a Commissioner in the Execution of this Act (unless it be
the Power hereby given of administering Oaths, and giving the First
Notice of the Meeting of the Commissioners) until he shall have
taken and subscribed the following Oath:

I A. B. do swear, That I will faithfully, impartially, and honestly, 3
according to the best of my Skill and Judgment, hear and de-
termine all such Matters and Things as shall be brought before me as a
Commissioner by virtue of an Act, "for dividing and inclosing several
Commons and Waste Grounds within the Manor of Wavertree, in the
Parish of Childwall, in the County Palatine of Lancaster," without
Favour or Affection, Prejudice or Malice, to any Person whomsoever:

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Which Oath it shall and may be lawful for any One of the said Commissioners to administer to any other of the said Commissioners; and the said Oath, so taken and subscribed by each Commissioner, shall be inrolled in the same Place and at the same Time as the Award or Instrument made by the said Commissioners is in and by this **Act** directed and enacted to be inrolled.

And for the more just and regular Distribution and Division of For making the said several Commons and waste Grounds, and for the better ascertaining the same, **It is hereby further Enacted**, That the said Commissioners, or any Two or more of them, shall, as soon as conveniently may be after the Passing of this **Act**, make or cause to be made a Survey and Valuation of all the Houses, Buildings, and Inlands, or inclosed Lands within the said Manor of *Wavertree*, intituled to Right of Common respectively, in which Valuation no House or Building within the said Manor shall be considered in Value, or valued at more or at a greater Rate or Price than the Scite of Ground whereon any such House or Building stands; and also shall cause the said Commons and waste Grounds to be surveyed, measured, planned, and valued; and it shall and may be lawful to and for the said Commissioners, or any Two or more of them, or such Person or Persons as they, or any Two or more of them, shall from time to time authorize, direct, and appoint for that Purpose, at any Time or Times to enter into, survey, measure, plan, and value, as well the said Houses, Buildings, and Inlands, or inclosed Lands, as also the said Commons and waste Grounds respectively, and to inquire into the several and respective Rights of Common aforesaid; and such Survey and Admeasurement shall be reduced into Writing, and the Number of Acres, Roods, and Perches contained in the said Commons and waste Grounds shall be therein specified and described; and the said Survey, Admeasurement, Plan, and Valuation shall be laid before the said Commissioners, or any Two or more of them, at One of their Meetings to be held in pursuance of this **Act**, to be by them kept for the Purposes of this **Act**.

And be it further Enacted, That it shall and may be lawful to and for the said Commissioners, or any Two or more of them, to enquire and determine what Inclosures and Incroachments have been made upon or from the said Commons or waste Grounds by any Person or Persons whomsoever; and also to determine upon and settle all Contracts, Covenants, Agreements, Claims and Demands whatsoever, touching the said Commons and waste Grounds, or any of them, or any Part or Parcel thereof, or any Right or Benefit of, in, or to the same, between any Landlord or Landlords and Tenant or Tenants respectively.

And

Allotments to
be made.

And be it further Enacted, That after the publick and private Highways and Roads shall have been set out and appointed in Manner herein after-mentioned, it shall and may be lawful to and for the said Commissioners, or any Two or more of them, and they are hereby authorized and impowered to set out and appoint a Quantity of Land, Part of the said Commons and waste Grounds, not exceeding Two Acres of the customary Measure there used, on the North East Part of the said Commons, near a Place there called *Wavertree Nook*, unto and for the said *Bamber Gascoyne*, to be held and enjoyed by him, his Heirs and Assigns for ever, in Severalty, and adjoining to his inclosed Lands there, as and for a Compensation and full Satisfaction for all the Commons and waste Grounds he the said *Bamber Gascoyne* may have or claim a Right to inclose within the said Manor, under or by virtue of a certain Act of Parliament made and passed for that Purpose in the Twenty-ninth and Thirtieth Years of the Reign of his late Majesty King *Charles the Second*; and shall then set out, allot, and appoint One equal Fourth Part (Quantity and Quality considered) of the then Residue of the said Commons and waste Grounds (except as is herein after-mentioned) unto and for the said *Bamber Gascoyne*, to be held and enjoyed by him, his Heirs and Assigns for ever, in Severalty, and in such Part or Parts of the said Commons and waste Grounds as he or they shall at or before the Second Meeting of the said Commissioners direct and appoint, as and for a Compensation and full Satisfaction for his Consent as Lord of the said Manor to the said intended Division and Inclosure of the said Commons and waste Grounds, and for his Interest in the said Commons and waste Grounds (other than and except as is herein after-mentioned) and to the said Inclosures, when inclosed, being made Freeholds to the several Owners or Proprietors thereof, freed and discharged from all Rents and Services to the said Lord of the said Manor (other than and except what is now paid for the same for Incroachments and otherwise): And the said Commissioners, or any Two or more of them, shall in the next Place set out, allot, and appoint of the then Residue of the said Commons and waste Grounds Fifty-six Statute Acres, of an Average Value with respect to the rest of the said Residue of the said Commons and waste Grounds, unto the said *Thomas Plumbe*, to be held and enjoyed by him, his Heirs and Assigns, for ever, in Severalty, and in such Part and Parts of the said Residue of the said Commons and waste Grounds as he or they shall at or before the Second Meeting of the said Commissioners direct and appoint, as and for an Equivalent, Compensation, and Satisfaction of and for all Right of Common and other Rights whatsoever belonging to, or that can or may be claimed by, him or them, in Right of his Estate in respect whereof he is intitled to such Right of Common as aforesaid, in, over, or upon the said Commons and waste Grounds intended to be divided and inclosed as aforesaid; and the said Commissioners, or any Two or more of them, shall in the next Place set out, allot, and appoint

appoint a certain Piece or Parcel of Land or Ground, other Part of the said Commons and waste Grounds, not exceeding Two Statute Acres, in such Place or Places as to them shall seem proper and convenient for the getting of Sand, Gravel, and Stones for the repairing or rebuilding of any ancient Edifices or Buildings within the said Manor, and for the repairing the publick Highways and Roads made and to be made within the said Manor of *Wavertree*, and for the Use of the Lord of the said Manor, and of the Copyholders and Cus-
 tomary Tenants of the said Manor within the said Manor: And shall then set out, allot, and appoint the then Residue and Remainder of the said Commons and waste Grounds unto and amongst the said
 8 *John Dannett, Edmund Ogden, William Lake, William Pickance, Peter Pemberton, William Lightbody, Adam Lightbody, and Richard Savage*, and the several other Copyholders intitled to Right of Common upon the said Commons and waste Grounds (except the said *Bamber Gascoyne* and *Thomas Plumbe*, Esquires) rateably and in proportion, Quantity and Quality considered, to the real Value of their several Estates in respect whereof they are intitled to such Right of Common as aforesaid, to be held and enjoyed by them respectively, and their respective Heirs and Affsigns for ever, to, for, and upon the like Uses, Trusts, Powers, and Limitations as the several Inlands for or in respect of which the said Commons and waste Grounds shall be so re-
 spectively allotted are now limited, settled, and assured, and shall be in full Compensation and Satisfaction of and for all Right of Common and other Rights whatsoever belonging to, or that can or may be claimed by them, or any of them, in, over, or upon the said Commons and waste Grounds to be divided and inclosed as aforesaid; and the same shall be ascertained, settled, and adjusted by the said Commissioners, or any Two or more of them.

And it is hereby further Enacted, That all Inclosures or Incroachments taken in, or made in, upon, from, or out of any Part of the said Commons and waste Grounds (save and except such as have been
 9 taken in, inclosed, held, and enjoyed for Twenty Years next before the Passing of this Act without Interruption) shall be deemed Part and Parcel of the said Commons and waste Grounds from or on which the same were respectively taken or made; and that such of the said Inclosures or Incroachments as shall have been taken or made by the said *Bamber Gascoyne*, or those under whom he claims, and from or on any Part of the said Commons and waste Grounds, within the like Space of Twenty Years next before the Passing of this Act (save and ex-
 cept a Close or Parcel of Ground near the Mill in *Wavertree*, and ad-
 joining to the Grounds now in the Occupation of *Joseph Hill*, lately inclosed by the said *Bamber Gascoyne*) shall be deemed and considered as so much of the said Allotments to be respectively allotted to him as Lord of the said Manor of *Wavertree*, or otherwise by virtue and in pursuance of this Act.

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Herbage of the Roads. **And be it further Enacted**, That the Herbage of the Land or Ground which shall be let out and appointed for the getting vested in Surveyors of Sand, Gravel, and Stones, for the Repairing the Highways and the Highways. Roads within the said Manor, shall be vested in, and the same is here- ways.

by vested in, the Surveyor or Surveyors of the Highways in Waver- tree for the Time being; and shall and may be demised, let, and set by him or them to any Person or Persons for the most Rent that can be got for the same; and the Rents and Profits thereof shall from time to time and at all Times thereafter be paid to and received by him and them, and shall be by him and them applied and accounted for in the same Manner as Money raised for the Repairs of the Highways is by Law directed to be applied and accounted for.

Due Regard to be paid to making the Allotments shall have a due Regard as well to the Quality and Quantity of as the Quantity and Situation of the Lands so to be divided and allotted Lands allot- as aforesaid, and to the Convenience of the Parties concerned; and to the Parties. shall set out and allot the Part or Share of each Person respectively in One entire Plot or Parcel, where the same can conveniently be done, and as near to each particular Person's Lands and Tenements respectively as the same conveniently may be, without Preference or Partiality to the Parties or Persons interested in the said intended Division or Inclosure.

Commission- And be it further Enacted, That the said Commissioners, or ers to set out any Two or more of them, shall and may and they are hereby di- Roads, &c. rected and required to set out and appoint such publick and private

Roads or Ways, and also such Ditches, Mounds, Fences, Drains, Water- courses, Banks, Bridges, Gates, and Stiles, in, over, or upon the said several Commons and waste Grounds intended to be divided and inclosed by virtue of this Act, or any of them, as they in their Dis- cretion shall think requisite, so as all such publick Roads shall be and remain Sixty Feet in Breadth at least between the Fences; and the said private Ways shall be of such Breadth as the said Commissioners, or any Two or more of them, shall order and direct; and that all such publick Roads and Ways shall be made, and at all Times for ever thereafter repaired and kept in Repair, by the said Township of Waver- tree; and that after such publick and private Ways or Roads shall be made, it shall not be lawful for any Person or Persons to use any other Roads or Ways, either publick or private, in, over, through, or upon the said Commons and waste Grounds intended to be divided and inclosed by virtue of this Act, or any of them, or any Part or Parts thereof, either on Foot, or with any Horses, Cattle, or Carriages; and that all former Roads and Ways, that shall not be set out and ap- pointed as the Roads and Ways through the said intended Inclosures, shall be deemed Part of the Lands to be divided and inclosed, and shall be so set out and appointed.

shall be divided and allotted accordingly as Part of such Lands; and that all private Ways, Hedges, Ditches, Walls, Fences, Banks, Drains, Bridges, Gates, and Stiles to be set out, erected, and appointed as aforesaid, shall be made and provided, and at all Times thereafter repaired, cleansed, maintained, and kept in Repair, by such Person or Persons, and in such Manner, as the said Commissioners, or any Two or more of them, shall by their Award or Instrument herein after-mentioned order, direct, and appoint.

12 And be it further Enacted, That if any Dispute or Difference shall arise between any of the Parties interested in the said intended Division and Inclosure touching or concerning the respective Rights and Interests which they or any of them now have or claim to have in the said Commons and waste Grounds hereby intended to be divided and inclosed, it shall and may be lawful for the said Commissioners, or any Two or more of them, and they are hereby impowered and required, by Examination of Witnesses upon Oath (which Oath the said Commissioners, or any Two or more of them, are hereby impowered to administer) and upon other proper Evidence, Enquiry, and Satisfaction, to hear and determine the same; and the Determination of the said Commissioners, or any Two or more of them, therein, shall be binding and conclusive to all Parties.

And for preventing all Differences and Disputes relating to the said Award to be intended Division and Inclosure; **Be it further Enacted**, That as soon as conveniently may be after the said Commissioners, or any Two or more of them, shall have completed and finished the respective Partitions, Allotments, and Divisions of the said Commons and waste Grounds, pursuant to the Purport and Directions of this Act, they the said Commissioners, or any Two or more of them, shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, which shall express, specify, and contain the Quantity in the Measure herein before mentioned of Acres, Roods, and Perches contained in the said Commons and waste Grounds, and the Quantity of each and every Parcel thereof assigned and allotted to every of the Parties intitled to and interested in the same respectively, and an exact Description of the Situation Abutments, and Boundaries of the said Parcels and Allotments respectively, with Orders and Directions for and concerning the laying out the publick Roads, and for and concerning the laying out, making, maintaining, cleansing, and keeping in Repair the private Roads, and the Ways, Hedges, Ditches, Fences, Banks, Drains, Watercourses, Bridges, Gates, and Stiles in, upon, and over the said Commons and waste Grounds intended to be divided and inclosed by virtue of this Act; and also such other Orders, Regulations, and Determinations as shall be necessary or proper to be inserted therein, according to the Tenor and Purport of this Act; and Two Parts of the said Award or Instrument shall be fairly ingrossed upon Parchment, and shall be signed and sealed by the said Commissioners, or any Two

or

or more of them; and One Part thereof shall, within Six Calendar Months next after the Execution of the same, be entered, deposited, and inrolled in the Court House of the Manor of *West Derby*; and a Copy of such Inrolment, or any Part or Parts thereof, signed by the proper Officer, shall from time to time be admitted and allowed in all Courts whatsoever as legal Evidence of the same; which Copy the said Officer for the Time being is hereby required to make and deliver ¹⁴ to any Person or Persons requiring the same, he or they paying for such Copy after the Rate of Two Pence a Sheet, reckoning Seventy-two Words to each Sheet, and the other Part of the said Award or Instrument shall be deposited and kept in such Place and Manner as the said Commissioners, or any Two or more of them, shall by their said Award or Instrument order, direct, and appoint, to the end Recourse may be had thereto from time to time by any Person or Persons interested in the said intended Division and Inclosure.

Right of
Common to
cease.

And be it further Enacted, That from and after the Finishing of the said Partitions and Allotments, and the Execution of the said Award or Instrument, all Right of Common in, over, and upon the several Commons and waste Grounds so intended to be divided and inclosed shall cease and be for ever extinguished; and that all and every Lease and Leases at Rack or extended Rent subsisting of all or any Part or Parts of the said Commons and waste Grounds hereby intended to be divided and inclosed, or Right of Common thereon, and all other Agreements at Rack or extended Rent for any Time or Terms therein, shall, immediately upon the Execution of such Award or Instrument, or so soon thereafter as the said Commissioners, or any Two or more of them, shall by the said Award or Instrument appoint, cease, determine, and be void, the respective Person and Persons who have made any such Lease, or Leases, or Agreements, ¹⁵ making such Satisfaction to such their Lessee or Lessees, Tenant or Tenants, as the said Commissioners, or any Two or more of them, shall ascertain as reasonable to be paid to such Lessee or Lessees, Tenant or Tenants on account thereof, or as an Equivalent for the same.

For defraying the Charges and Expences of the said *Thomas Plumbe* Esquire and all the other Charges and Expences incident to the obtaining and attending the passing of this Act, and of the surveying and valuing the said Houses, Buildings, and Inlands, or inclosed Lands within the same Manor, and of the surveying, planning, measuring, valuing, dividing, allotting, and setting out the said Commons and waste Grounds so intended to be divided and inclosed as aforesaid, and of the preparing, making, and inrolling the said Award or Instrument, and all the Charges and Expences of the said Commissioners, and other necessary Charges and Expences incident to or attending the Execution of this Act, shall be borne and defrayed by the several Persons to and amongst whom the said Commons and waste Grounds

Grounds shall be respectively allotted, except the said *Bamber Gascoyne* in respect to the said Two Acres and to the Fourth Part of the said Commons and waste Grounds herein before directed to be set out and allotted to him as Lord of the said Manor, and also except the several Persons 16 who hold any Lands or Grounds within the said Manor by virtue of any Lease or Leases granted by the Lord thereof, in Proportion to the real Value of their respective Allotments, to be settled, adjusted, and ascertained by the said Commissioners, or any Two or more of them, and shall be paid to such Person or Persons, and at such Time and Times as the said Commissioners, or any Two or more of them, shall for that Purpose nominate, direct, and appoint: And in case any of the Persons aforesaid shall refuse or neglect to pay his, her, or their Share or Proportion, Shares or Proportions of such Charges and Expences within the Time to be limited by the said Commissioners, or any Two or more of them, to such Person or Persons as they, or any Two or more of them, shall appoint to receive the same, then the said Commissioners, or any Two or more of them, shall and may by Warrant or Warrants under their Hands and Seals, directed to any Person or Persons whomsoever, cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, or of the Goods and Chattels which shall be found upon the respective Allotment or Allotments, rendering the Overplus (if any) on Demand, to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking or making such Distress and Sale, or otherwise it 17 shall and may be lawful to and for the said Commissioners, or any Two or more of them, to enter into and upon the Premises so to be allotted to such Person or Persons refusing or neglecting to pay as aforesaid, and to receive and take the Rents and Profits thereof, until thereby or therewith the Share or Shares, Proportion or Proportions of the said Costs and Charges so directed, awarded, and appointed by the said Commissioners, or any Two or more of them, to be paid by any such Person or Persons as aforesaid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Perception of the Rents and Profits of the said Premises shall be fully paid and satisfied.

And be it further Enacted, That all and every Person and Persons to whom any Part of the said Commons and waste Grounds shall be allotted in pursuance of this Act, shall inclose, and well and sufficiently fence and ditch their several and respective Parts, Shares, and Allotments thereof within Twelve Calendar Months next after the Execution of the said Award or Instrument, in the Manner directed and prescribed, in and by the same.

And be it further Enacted, That in case any Person or Persons to whom or to whose Use or Benefit any Land or Ground shall by virtue

to inclose
their Allot-
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of this Act be allotted, shall not within such Time as is herein before limited inclose, hedge, ditch, wall, or fence the Land or Ground so to be set out and allotted to or for him, her, or them respectively as aforesaid, in such Manner as the said Commissioners, or any Two or 18 more of them, shall in their Award order and direct, then and in every such Case it shall and may be lawful to and for the Person and Persons interested in the Lands or Grounds next adjoining to the Lands and Grounds of the Person or Persons who shall not have so inclosed, hedged, ditched, walled, or fenced as aforesaid, to exhibit a Complaint in Writing against such Person or Persons before One or more of his Majesty's Justices of the Peace for the County Palatine of *Lancaster*, not being interested in the Lands or Grounds so intended to be inclosed, who is and are hereby required to summon the Parties concerned, and to examine Witnesses upon Oath as to the Nature of the Complaint, and shall and may order, direct, and appoint the Person or Persons exhibiting the Complaint to make, repair, and maintain the Hedges, Ditches, Walls, or Fences of the Person or Persons who shall not have so inclosed, hedged, ditched, walled, or fenced as aforesaid; and also shall and may, by Warrant under his or their Hand and Seal or Hands and Seals, directed to the Person or Persons exhibiting such Complaint as aforesaid, cause the Charges and Expences of making, repairing, and maintaining the Hedges, Ditches, Walls, or Fences of the Person or Persons who shall not have so inclosed, hedged, ditched, walled, or fenced as aforesaid, to be levied by Distress and Sale of the Goods and Chattels of such Person or Persons neglecting or refusing to pay the same upon Demand, rendering the Overplus (if any) after Payment of such Charges and Expences, and of the Costs and Charges of taking and making such Distress and Sale to the Owner or Owners of such Goods and Chattels; or otherwise the said Justice or Justices shall and may, by Writing under his or their Hand and Seal or Hands or Seals, authorize and empower the Person or Persons exhibiting such Complaint to enter into and upon the Premises so to be allotted to such Person or Persons neglecting or refusing to pay as aforesaid, and to receive and take the Rents and Profits of the same Premises respectively, until thereby or therewith the Charges and Expences of making, repairing, and maintaining the said Hedges, Ditches, Walls, or Fences, which ought to have been made, repaired, and maintained by the Person or Persons who shall so neglect or refuse to pay as aforesaid, together with all Costs and Charges occasioned by and attending such Entry upon and Perception of the Rents and Profits of the same Premises shall respectively be fully paid and satisfied.

Allotments to
be accepted
within a cer-
tain Time

And be it further Enacted, That all and every Person and Persons intitled to any such Allotment or Allotments as aforesaid, shall and they are hereby required to accept his, her, and their respective Allotments within the Space of Six Calendar Months next after the Execution of the said Award or Instrument, and Notice in

in Writing affixed on the Door of the Parish Church of *Childwall* aforesaid for that Purpose under the Hands of the said Commissioners, or any Two or more of them; and in Case any Person or Persons shall neglect or refuse to accept his, her, or their Allotment or Allotments within the Time before mentioned, such Person or Persons so neglecting or refusing shall be totally excluded from having or receiving any Benefit or Advantage from any Estate, Interest, or Right of Common whatsoever of, in, or to the Lands or Grounds so assigned or allotted to any other Person or Persons by virtue of or under this Act.

Provided always, and be it further Enacted, That the Guardians, Husbands, Trustees, Committees, or Attorneys of any Person or Persons being a Minor or Minors, under Coverture, beyond Seas, or otherwise incapable by Law to accept such Allotment or Allotments so to be made as aforesaid, shall be and is and are hereby enabled and required to accept thereof for the Use of the Person or Persons under any of the Disabilities aforesaid, or otherwise incapacitated, and every such Acceptance respectively shall be and is hereby declared to be as valid and effectual as if the Person or Persons to whom the same shall be made respectively was or were capable of acting for himself, herself, or themselves; any Thing herein contained to the contrary in any wise notwithstanding.

Provided also, That the Non-claim or Non-acceptance of any Guardian, Husband, Trustee, Committee, or Attorney, shall not exclude or prejudice the Claim or Acceptance of any Infant, Feme-covert, or any other Person under such Disability or Incapacity as aforesaid, who shall claim or accept within One Year next after such Disability or Incapacity removed; or of any Person or Persons intitled as Heir, or in Remainder or Reversion after the Death of any Person dying under such Disability or Incapacity, who shall claim or accept within One Year after his, her, or their Right, Title, or Interest shall have descended, vested, or accrued.

And be it further Enacted, That for the more convenient Situation and Disposition of the several Farms, Lands, and Estates of the said *Bamber Gascoyne*, Lord of the said Manor of *Wavertree*, and of the several Copyholders or Customary Tenants within the said Manor, and of every or any of them, upon the said intended Division and Inclosure, it shall and may be lawful to and for the Lord of the said Manor, and any of the said Copyholders or Customary Tenants within the said Manor, his, her, or their Guardian or Guardians, Trustee or Trustees, or any Person or Persons acting as such, to exchange all or any Part or Parts of his, her, or their Messuages, Tenements, Inlands, or inclosed Lands and Hereditaments within the said Manor, or any Allot-

Allotment or Allotments to be made in respect thereof for any other Messuages, Tenements, Inlands, or inclosed Lands, or Hereditaments within the said Manor, or for any Allotments to be made in respect thereof with any Person or Persons whatsoever, so as all and every such Exchange or Exchanges be made by and with the Consent and Approbation of the said Commissioners, or any Two or more of them, to be ascertained, specified, and declared in the said Award or Instrument, or in some other Deed or Instrument, to be introlled at the same Place and in the same Manner as the said Award or Instrument is hereby directed to be introlled; and all and every such Exchange and Exchanges to be made as aforesaid, shall be good, valid, and effectual in the Law to all Intents and Purposes whatsoever; any Settlement, Will, Trust, Use, Remainder, Limitation, or other Impediment or Incumbrance affecting the said Lands or Premises so exchanged as aforesaid, to the contrary notwithstanding.

Nothing in this Act to make void, any Will or Settlement, **Provided also, and be it further Enacted, That** nothing herein contained shall extend, or be construed, adjudged, deemed, or taken to revoke, make void, alter, or annul any Settlement, Deed, Will, or Lease whatsoever, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Rent, Service, Debt, Charge, or Incumbrance, in, out of, upon, or affecting any of the Lands, or Grounds to be divided and inclosed as aforesaid, or any Part or Parcel thereof, or which shall be exchanged in pursuance of this Act, or any Part thereof; but that the several Lands and Grounds so to be allotted and assigned upon such Division and Inclosure to the several Proprietors respectively, or which shall be taken in Exchange in pursuance of this Act, shall immediately after such Allotments and Exchanges be, remain, and enure, and be held and enjoyed, and the several Persons to whom the same shall be assigned and allotted and given in Exchange as aforesaid shall from thenceforth stand and be seised and possessed thereof respectively to such and the same Uses, and to and for such and the same Estates, and with such and the same Powers and Authorities for making Leases and otherwise, and subject to the same Wills, Limitations, Conditions, Settlements, Trusts, Provisoes, Remainders, Reversions, Debts, Charges, and Incumbrances, as the several Messuages, Lands, Tenements, or Hereditaments, in respect and in lieu whereof such Allotments and Exchanges were made to them respectively were and stood severally limited, subject, and liable unto at the Time of such Exchange, Assignment, or Allotment respectively; subject nevertheless and without Prejudice to the several Powers, Authorities, Reservations, and Interests herein before given, granted, and reserved to the Lord of the said Manor, and to other the Person or Persons, Tenants in Tail or for Life, with respect to making Exchanges and Leases as aforesaid.

And

And be it further Enacted, That it shall and may be lawful to ^{Tenants for} and for the Husbands, Guardians, Trustees, or Committees of any of ^{Life may} the said Owners or Proprietors being under Coverture, Minors, Ideots, ^{borrow Mo-} Lunaticks, or beyond the Seas, or being under any other Disability ^{ney for the} whatsoever, and to and for every or any of them for the Time being, ^{Purposes of} ^{this Act, and} and to and for any of the said Proprietors, being Tenants in Tail or ^{mortgage Al-} ^{lotments.} for Life only, by and with the Consent of the said Commissioners, or any Two or more of them, testified in Writing under their Hands and Seals, from time to time to charge the Lands and Grounds which shall be assigned and allotted unto them the said Proprietors respectively by virtue and in pursuance of this Act, with any such Sum or Sums of Money as the said Commissioners, or any Two or more of them, shall in their Discretion judge necessary for the Purposes of this Act, not exceeding the Sum of Forty Shillings for each Statute Acre; and and for securing the Repaying of such Sum or Sums of Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the Lands and Grounds so to be assigned and allotted unto such Person or Persons as shall respectively advance and lend such Money, his, her, and their respective Executors, Administrators, and Assigns, for any Term or Number of Years, so as such Grant or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with Interest thereof, shall be fully satisfied and paid, and so as in every such Grant or Demise which shall be made by any Person or Persons interested in or intitled to any such mortgaged Premises for the Term of their natural Lives only, or by his, her, or their Guardian or Guardians, Trustee or Trustees, Committee or Committees, there be contained a Covenant to pay and keep down the Interest of the said Money to be thereby respectively secured during his, her, or their respective Life or Lives, in such Manner that no Person or Persons afterwards becoming possessed of such Lands and Grounds shall be subject or liable to pay any further or any larger Arrear of Interest than for One Year preceding the Time when the Title to such Possession shall accrue and commence; and every such Grant, Mortgage, Lease, or Demise of the said Lands, Grounds, and Premises, or any Part or Parts thereof, so to be made in pursuance of this Act, shall be good, valid, and effectual in the Law for the Purposes thereby intended, notwithstanding the Want of Title in the said Husbands, Guardians, Trustees, or Committees, or in the Persons acting as such, or in the said Tenants in Tail or for Life; any Settlement, Will, Trust, Use, Remainder, Limitation, or other Impediment or Incumbrance of or concerning the said Lands, Grounds, and Premises, or any Part or Parcel thereof, then in being or capable of taking Effect, to the contrary notwithstanding: And all and every Person and Persons to ^{Mortgages} whom any such Grant, Mortgage, Lease, or Demise shall be made, or ^{may be} transferred. who shall for the Time being be intitled to the Money thereby to be secured, shall and may from time to time, by any Deed or Deeds, Writing

or Writings under his, her, or their Hand and Seal or Hands and Seals, to be executed in the Presence of Two or more creditable Witnesses, assign or transfer the said Security or Securities, and the Principal Money and Interest thereby secured, and all Benefit and Advantage thereof, and all his, her, or their Right, Title, and Interest in and to the same unto any Person or Persons whomsoever, who may again in like Manner assign the same, and so from time to time as Occasion shall require; and such Mortgagor or Mortgagees, Assignee or Assignees, his, her, or their Executors and Administrators, and all Persons claiming under him, her, or them, or any of them, shall and may use, take, and pursue all such Methods in Law or Equity for recovering, and obtaining Possession of the Premises so to be mortgaged, demised, or assigned as aforesaid, in case of Non-payment of the said Principal Money and Interest to be thereby secured, or any Part thereof, as is 27 or are used, taken, and pursued in all Cases of the like Nature.

Smith's Shop
on Wavertree
Green to be
taken down.

And whereas there is now standing upon a small Part of the Commons and waste Grounds hereby intended to be divided and inclosed, called *Wavertree Green*, an old Edifice or Building now and for some Time past used as and for a Smith's Shop, the Property of the said *Bamber Gascoyne*, and it will be convenient to the Inhabitants near the said Green to have the same taken away; **Be it therefore further Enacted**, That it shall and may be lawful to and for the said Commissioners, or any Two or more of them, and they are hereby required, within Twelve Calendar Months next after the Passing of this Act, to take down the said Smith's Shop, and other Buildings thereto belonging, and to carry away and dispose of the Materials thereof, and to apply the Money arising thereby towards the Charges and Expences of the Commissioners in the Execution of this Act; and the said Commissioners, or any Two or more of them, shall and may and they are hereby required to set out and allot unto and for the said *Bamber Gascoyne* such Quantity of Land and Grounds, Part of the Lands and Grounds hereby intended to be divided and inclosed, as in the Judgment of the said Commissioners shall be a full Equivalent and Satisfaction for the Right, Interest, and Property of 28 the said *Bamber Gascoyne* of and in the said Smith's Shop, and Buildings thereto belonging, and the Scite whereon the same stood, and the said Allotment shall be added to the said Fourth Part herein before directed to be set out unto and for the said *Bamber Gascoyne*.

And whereas many good Messuages or Dwelling-houses, and other Edifices and Buildings are now erected and built fronting a small Part of the said Commons or waste Grounds, called, distinguished, or known by the Name of *Wavertree Green*, herein-after particularly described, and the erecting of any Edifice or Building whatsoever, Hay or Corn Rick or Ricks, or the planting of any Timber or other Trees,

Trees, save for Fences as aforesaid, will greatly annoy and be
 of much Hurt and Prejudice to the Owners and Inhabitants of all
 the Messuages or Dwelling-houses adjoining or fronting the said Com-
 mon or Green called *Wavertree Green*; Be it therefore further
 Enacted, That it shall not be lawful to or for the said Lord of the
 said Manor, or to or for any of the said Copyholders or Customary
 Tenants having Right of Common as aforesaid, or to or for any other
 Person or Persons whomsoever, to whom any Part or Parts of the saids
 Commons or waste Lands within *Wavertree* aforesaid, called, distin-
 guished, or known by the Name of *Wavertree Green*, shall be set out
 and allotted in pursuance of this Act, beginning at the Guide Post in
 29 *Wavertree Lane*, leading towards *Liverpool* aforesaid, on the North
 West Corner of the said Green, and running Eastwardly to the Ground
 or Hedge Nook, or Corner of the Ground of *Ralph Williamson*, Esquire,
 there and from the said Guide Post Southwardly, to the Hedge, Nook,
 or Corner of the Ground and Row of Fir-trees of *Mrs. Margaret Hamil-
 ton*, Widow, and running Eastwardly therefrom, and Southwardly
 from the said Ground, Hedge, Nook, or Corner of the Ground of
Ralph Williamson, Esquire, as aforesaid, to the Messuage or Dwelling-
 house of *William Whitfield*, there, when and after the same shall be
 so set out and allotted by the said Commissioners, or any Two or
 more of them, in pursuance of this Act, at any Time or Times for
 ever hereafter, to make, erect, or build, or cause or procure to be
 made, erected, or built, any Messuage or Dwelling-house, Edifice or
 Building, of what Kind or Nature soever, Hay or Corn Rick or Ricks,
 Hedges, Walls, Pales, Ditches, or Fences exceeding Four Feet and an
 Half high, in or upon any Part or Parts of the said Commons or
 waste Lands, called, distinguished, or known by the Name of *Waver-
 tree Green*, herein before particularly described, and within the Limits
 aforesaid, or to plant thereupon, or upon any Part or Parts thereof,
 any Timber, or other Tree or Trees whatsoever, save such as shall or
 may be sufficient and necessary for the Fences to and for the Inclosures
 to be made thereon in pursuance of this Act, or to make or do, or
 cause or procure to be made or done, any other Act, Matter, or
 Thing whatsoever thereupon, or upon any Part or Parts thereof,
 which shall or may annoy, or tend to the Annoyance in Prospect or
 otherwise, of all or any of the Messuages or Dwelling-houses fronting
 to or adjoining the said Common or Green, called, distinguished, or
 known by the Name of *Wavertree Green*, within the Limits and De-
 scriptions aforesaid; and in case any Messuage or Dwelling-house,
 Edifice or Building, Hay or Corn Rick or Ricks, Walls, Hedges,
 Pales, or Fences, exceeding more than Four Feet and an Half high, Tree
 or Trees, or other Matter or Thing shall be so erected, built, or made
 or planted above the Height aforesaid by any Person or Persons whomso-
 ever, at any Time or Times for ever hereafter, upon the said Common
 or Green, called *Wavertree Green*, and within the Limits aforesaid,
 to

to the Annoyance or that may tend to the Annoyance of all or any of the Messuages or Dwelling-houses now erected and fronting the said Green, it shall and may be lawful to and for the said Copyholders or Customary Tenants of the said Manor, his or their Servants, Agents, or Workmen, after having given at least Ten Days Notice to the Person or Persons offending herein, to take down and remove such Annoyance, Impediment, or Obstruction, and after the Expiration thereof if Neglect or Default shall be made therein, to enter (in the Day-time) upon all or any Part or Parts of the said Common or Green, called *Wavertree Green*, and to take, pull, cut down, and remove the said Messuage or Dwelling-house, Edifice or Building, Hay or Corn Rick or Ricks, Walls, Pales, Tree or Trees, or other Matter or Thing that shall or may be so thereon erected, made, and built, to the Annoyance or that may tend to the Annoyance aforesaid, doing as little Damage as possible and as the Nature of the Case will admit of; and that in case any Action or Suit, Actions or Suits shall be commenced and brought for the taking, pulling, cutting down, or removing the same, it shall and may be lawful to and for the Defendant or Defendants therein to plead the General Issue to such Action or Suit, Actions or Suits, and give this Act and the Special Matter in Evidence upon such Trial or Tryals; and in case a Verdict shall go for the Defendant or Defendants upon such Tryal or Tryals, or the Plaintiff or Plaintiffs shall discontinue, or become Nonsuit in all or any such Actions or Suits, the Defendant or Defendants shall be intitled to and recover double Costs, in like Manner as all other Costs at Law is and are recoverable; and in case a Verdict shall go to or for the Plaintiff or Plaintiffs in such Action or Actions so to be brought, such Plaintiff or Plaintiffs shall not recover or be intitled to recover therein more Costs than the Damages assed by the Jury upon the Tryal or Tryals thereof: And that he the said *Bamber Gascoyne* shall, within Twelve Calendar Months after the Passing of this Act, take down and totally remove the said old Edifice or Building now erected and standing upon the said Common or Green, called *Wavertree Green*, and now and heretofore used as for a Smithy or Smith's Shop, and destroy all Roads to and from the same; it being the Intent of the said Lord of the said Manor and the said Copyholders or Customary Tenants of the said Manor, that the said Common or Green, within the Bounds and Limits aforesaid, although inclosed, shall be left intirely open; and only used and occupied as Arable, Meadow, or Pasture Ground.

No Tree to
be planted
within a cer-
tain Distance
of a Windmill
on the said
Commons.

And be it further Enacted, That if any Person or Persons to whom any Allotment or Allotments of Land and Ground shall be made by virtue of this Act, shall erect or build any House or Building, or shall plant any Tree or Trees within the Distance of Two hundred Yards from a certain Windmill situate on the Commons and waste Grounds

Grounds hereby intended to be divided and inclosed, or shall suffer any Tree or Trees, planted without the Distance aforesaid, to grow to such a Height as to prevent the Going of the said Windmill, the same shall be and is hereby declared to be a Nusance, and shall and may be removed or prevented by the said *Bamber Gascoyne*, or the Owner or Occupier of the said Windmill.

And be it further Enacted, That the said Commissioners, or Notice to be given of any Two or more of them, shall and they are hereby required to give publick Notice in the Church of *Childwall* aforesaid, upon some Meeting, ^{given of} ^{Meeting.} ³³ *Sunday* immediately after Divine Service, and also to affix a like Notice in Writing upon the Door of the said Church, of the Time and Place of their First and every subsequent Meeting for the executing the Powers hereby vested in them, at least Thirty Days before every such Meeting (Meetings by Adjournment only excepted).

And be it further Enacted, That if *John Eyes*, One of the Commissioners appointed by this Act, shall die or refuse to act, or if any Person to be appointed in Manner herein after-mentioned in the Room of him the said *John Eyes*, shall die or refuse to act, it shall be lawful for the said *Bamber Gascoyne*, Lord of the said Manor, his Heirs and Assigns from time to time, by Writing under his or their Hand and Seal or Hands and Seals, to appoint a Commissioner, not interested in the said intended Division and Inclosure, instead of the said *John Eyes*, or such other Person as aforesaid; and that if *Joseph Jackson*, One other of the Commissioners appointed by this Act, shall die or refuse to act, or if any Person to be elected in Manner herein after-mentioned in the Room of him the said *Joseph Jackson*, shall die or refuse to act, the Persons who for the Time being shall be Copyholders of the said Manor, or the major Part of them in Value, shall, within One Calendar Month next after such Death or Refusal shall be known, by Writing under their Hands and Seals, appoint a Commissioner or Commissioners, not interested in the said intended Division and Inclosure, instead of the said *Joseph Jackson*, or such other Person as aforesaid; provided that Notice be given in the Church of *Childwall* aforesaid upon some *Sunday* immediately after Divine Service, of the Time and Place of Meeting to appoint such Commissioner, at least Six Days before such Meeting: And that if the said *Caryl Fleetwood*, the other Commissioner appointed by this Act, shall die or refuse to act, or if any other Person to be appointed in the Manner herein after-mentioned in the Room of him the said *Caryl Fleetwood*, shall die or refuse to act, it shall be lawful for the said surviving Commissioners or Commissioner from time to time, by Writing under their or his Hands and Seals or Hand and Seal, within One Calendar Month next after such Death or Refusal shall be known, to appoint a Commissioner, not interested in the said intended Division

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and Inclosure, instead of the said *Caryl Fleetwood*, or such other Person appointed as aforesaid, and every such Commissioner, to be appointed as aforesaid, shall have the like Authority to act in the Execution of this Act as the Commissioner in whose Place he shall succeed was vested with.

Provided always, That the Charges and Expences of all and every Proprietor or Proprietors, or Parties interested in the said Division and Inclosure so to be made, shall at every such Meeting be defrayed and paid by every such Proprietor or Party respectively.

And be it further Enacted, That nothing herein contained shall extend or be construed to extend to defeat, lessen, or prejudice the Right, Title, or Interest of the said *Bamber Gascoyne*, Esquire, Lord of the said Manor of *Wavertree*, or of any future Lord or Lords of the said Manor of *Wavertree*, of, in, and to the Seigniories and Royalties incident and belonging to the said Manor; but that the said *Bamber Gascoyne*, Esquire, and all and every Person and Persons claiming under him, or in Trust for him respectively as Lord of the said Manor, and all other succeeding Lords of the said Manor for the Time being, shall and may from time to time and all Times for ever hereafter hold and enjoy all Rents, Services, Courts, Perquisites and Profits of Courts, Goods and Chattels of Felons and Fugitives, Feli ons of themselves and put in Exigent, Deodands, Waifs, Estrays, Forfeitures, and all other Rights, Royalties, Privileges, Authorities, Powers, and Jurisdictions whatsoever in and upon the said Commons and waste Grounds hereby intended to be inclosed as aforesaid, to the said Manor, or to the Lord or Lords thereof for the Time being, incident, appendant, belonging, or appertaining, other than and except such Right of Common as can or may be claimed by the Lord of the said Manor upon the Lands and Grounds hereby intended to be divided and inclosed, in the same, and in as full, ample, and beneficial a Manner, to all Intents and Purposes, as he, they, or any of them could or might have held and enjoyed the same in case this Act had not been made.

Persons aggrieved may appeal to the Quarter Sessions.

And be it further Enacted, That if any Person or Persons shall think him, her, or themselves aggrieved by any Thing done in pursuance of this Act, then and in every such Case (except in such Cases where the Orders and Determinations of the said Commissioners are directed to be final, binding, and conclusive upon all Parties) he, she, or they may appeal to the General Quarter Sessions of the Peace which shall be held for the County Palatine of *Lancaster*, within Six Months next after the Cause of Complaint shall have arisen; and the Justices, in their said General Quarter

Quarter-Sessions, are hereby required to hear and determine the Matter of every such Appeal, and to make such Order therein, and award such Costs, as to them in their Discretion shall seem reasonable; and by their Order or Warrant to levy the Costs which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale, 37 which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removable by *Certiorari*, or any other Writ or Process whatsoever, into any of his Majesty's Courts of Record at *Westminster* or elsewhere.

Saving always to the KING's most Excellent MAJESTY, General Saving
his Heirs and Successors, and to all and every other Person and
Persons, Bodies Politick and Corporate, his, her, and their Heirs,
Successors, Executors, and Administrators, other than and except
the Lord of the said Manor of *Wavertree* for the Time being, and
all and every other Person and Persons intitled to any Right of
Common in or upon the said Commons and waste Grounds so in-
tended to be divided and inclosed as aforesaid, his, her, and their
Heirs, Successors, Executors, and Administrators respectively, all such
Right, Title, and Interest, as they, every or any of them, had and
enjoyed of, in, or out of the said Commons and waste Grounds so
intended to be divided and inclosed before the Passing of this Act,
or could or might have had and enjoyed in case this Act had not
been made.

A C T

F O R

Dividing and Inclosing several Commons and Waste Grounds within the Manor of *Wavertree*, in the Parish of *Childwall*, in the County Palatine of *Lancaster*.

L 1768. J

